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BEFORE THE
PUBLIC SERVICE COMMISSION OF WISCONSIN

Annual Reports for the Year Ended December 31, 2002, Filed by
Commercial Mobile Radio Service Providers on a Confidential Basis

RE: PSC Control Nos. 24080, 24081, 25691, 25693, 25694, 25695, 25735, 25736, 25737,
25760, and 25761

CONFIDENTIALITY DETERMINATION

INTRODUCTION

On February 24, 2003, the Public Service Commission (Commission) issued a document entitled "Information Regarding Confidential Filings" concerning the 2002 Commercial Mobile Radio Service Provider (CMR) annual report. The document detailed the filing process associated with the 2002 CMR annual report¹ as well as previous confidentiality rulings concerning CMR annual reports.²

On April 1, 2003, AT&T Wireless Services of Minnesota, Inc., (AT&T Wireless entity 266) submitted written applications seeking confidential treatment (including trade secret

¹ The February 24, 2003, document noted that the 2002 CMR annual report could be filed using one of two procedures: 1) File the entire report on a public basis using the annual report program's e-mail capabilities; or 2) Submit a request for confidential handling, in accordance with Wis. Admin. Code § PSC 2.12, in conjunction with a manual filing of the report. A manual filing consists of two completed Confidentiality Request forms, two notarized affidavits, confidential hard copy pages, a confidential diskette containing annual report program files, and a complete public version of the 2002 report, the latter which is posted on the Commission's web page.

² The document noted that, subsequent to the Commission's denial of confidentiality requests concerning information contained in the 2001 CMR annual report, a number of companies sought judicial review or filed a petition for reconsideration and stay of the Commission's determination. The Commission voluntarily stayed its determination pending the outcome of those court cases, which were then pending in the Dane County Circuit Court, and/or any subsequent related Commission action. Those cases were decided in 2003. Although the Commission prevailed in part, it voluntarily accepted a remand to re-determine the challenged determinations. The determinations made in the present decision are consistent with the circuit court's construction of the confidentiality rule.

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status) of certain information in its 2002 CMR annual report. The information is filed under document PSC control numbers 25735 and 25760.

On March 31, 2003, SprintCom, Inc., (entity 5665) submitted written applications seeking confidential treatment of certain information in its 2002 CMR annual report. The information is filed under document PSC control numbers 25691 and 25693.

On March 31, 2003, Sprint Spectrum L.P. (entity 7146) submitted written applications seeking confidential treatment of certain information in its 2002 CMR annual report. The information is filed under document PSC control numbers 25694 and 25695.

On April 1, 2003, TeleCorp Communications, Inc., (entity 8029) submitted written applications seeking confidential treatment (including trade secret status) of certain information in its 2002 CMR annual report. The information is filed under document PSC control numbers 25736 and 25761.

On April 1 and May 19, 2003, AT&T Wireless PCS, LLC (entity 8212) submitted written applications seeking confidential treatment (including trade secret status) of certain information in its 2002 CMR annual report. The information is filed under document PSC control numbers 24080, 24081, and 25737.³

In particular, the above-referenced companies sought confidential treatment (and in some cases trade secret status) for the Wisconsin Gross Intrastate Operating Telecommunications Service Revenue information on p. 6 of their respective 2002 CMR annual reports. For the reasons stated in a Confidentiality Determination dated July 8, 2003, confidential treatment for the above specifically identified data was granted on a provisional basis, without consideration of

³ Confidentiality Request Nos. 25737 (April 1, 2003) and 24080 and 24081 (May 19, 2003).

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the merits of the arguments of any company contained in respective affidavits accompanying the 2002 CMR annual reports, based on the then-pending status of related court cases.

In 2002, nine court cases were filed. The nine cases were subsequently consolidated into two cases. One court case resulted in a decision favorable to the Commission's determinations; the other court case resulted in an adverse decision. See footnote 2.

This confidentiality determination is made pursuant to the Commission's jurisdiction under Wis. Stat. §§ 196.02(1), 196.14, and other provisions of Wis. Stat. ch. 196 and Wis. Stat. §§ 19.32-.39, as may be pertinent hereto, the Commission's November 21, 2000, order delegating confidential handling determinations, and Wis. Admin. Code § PSC 2.12.

FINDINGS OF FACT

1. All of the above-referenced companies are Commercial Mobile Radio Service Providers (CMRSs) which are required to file a CMR annual report with the Commission. The statutory filing date for the CMR annual report covering 2002 calendar year operations was April 1, 2003; 60 CMRSs were required to file this report for the 2002 calendar year.⁴
2. The above requests for confidential handling concern portions of 2002 CMR annual reports which individually became Commission records, within the meaning of Wis. Stat. § 19.32(2).
3. Each requester filed affidavits in support of the requests claiming that the records, if released, would aid a competitor of a public utility in competition with the public utility, as provided under Wis. Stat. § 196.14, and, in some cases, constitute trade secrets, as defined in Wis. Stat. § 19.32(2).

⁴ As of the date of this determination, 27 of the 60 CMRSs have actually filed the 2002 CMR annual report with the Commission.

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4. Pursuant to Wis. Admin. Code § PSC 2.12(6), the Commission has confidentially handled the records pending this determination and will continue to confidentially handle the records after the date of this determination.

5. The records contain information which derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use.

6. The records contain information that would aid a competitor of the respective entities in competition with the requesters.

CONCLUSIONS OF LAW

1. There is a reasonable basis to conclude that the records contain information which would aid a competitor of a public utility in competition with the public utility, within the meaning of Wis. Stat. § 196.14.

2. There is a reasonable basis to conclude that in situations where a request for trade secret status was made, the records contain trade secrets within the meaning of Wis. Stat. § 134.90(1)(c).

ORDER

WHEREFORE, confidential treatment of Wisconsin Gross Intrastate Operating Telecommunications Service Revenue information in the above-referenced companies' 2002 CMR annual reports is **granted**. Trade secret status for such information under Wis. Stat. §§ 19.36(5) and 134.90(1)(c), as claimed by some companies, is likewise **granted**.

This confidentiality determination is not a final determination under the Public Records law; it is the Commission's decision for purposes of managing its files. This confidentiality

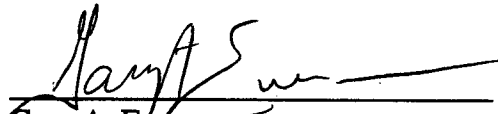
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determination does not prejudice the right of any person to submit a public records request to inspect the contents of the filings subject to this determination.

This order is effective upon mailing.

Dated at Madison, Wisconsin, 21 April 2004

For the Commission:



Gary A. Evenson
Administrator
Telecommunications Division

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See attached Notice of Appeal Rights

2002 CMR Annual Report Confidentiality Determination

Notice of Appeal Rights

Notice is hereby given that a person aggrieved by the foregoing decision has the right to file a petition for judicial review as provided in Wis. Stat. § 227.53. The petition must be filed within 30 days after the date of mailing of this decision. That date is shown on the first page. If there is no date on the first page, the date of mailing is shown immediately above the signature line. The Public Service Commission of Wisconsin must be named as respondent in the petition for judicial review.

Notice is further given that, if the foregoing decision is an order following a proceeding which is a contested case as defined in Wis. Stat. § 227.01(3), a person aggrieved by the order has the further right to file one petition for rehearing as provided in Wis. Stat. § 227.49. The petition must be filed within 20 days of the date of mailing of this decision.

If this decision is an order after rehearing, a person aggrieved who wishes to appeal must seek judicial review rather than rehearing. A second petition for rehearing is not an option.

This general notice is for the purpose of ensuring compliance with Wis. Stat. § 227.48(2), and does not constitute a conclusion or admission that any particular party or person is necessarily aggrieved or that any particular decision or order is final or judicially reviewable.

Revised 9/28/98